

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



In re Application of:  
David R. Battiste  
Serial No.: 09/705,316  
Filed: November 3, 2000

For: IMPROVED MONITORING AND  
CONTROL OF PROCESSES FOR  
MAKING 1-HEXENE

§ Confirmation No.: 7718  
§  
§ Group Art Unit: 1797  
§  
§ Examiner: Dang, Thuan D.  
§  
§ Atty. Docket: CPCM:0008/FLE/STA  
§ 33938US  
§

Mail Stop Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313

CERTIFICATE OF TRANSMISSION OR MAILING 37 C.F.R. 1.8	
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May 28, 2008	Helen Tinsley
Date	Helen Tinsley

Sir:

**TRANSMITTAL LETTER FOR SUBMISSION OF ISSUE FEE**

In response to the Notice of Allowance and Fee(s) Due mailed February 29, 2008, the Commissioner is authorized to charge the requisite fee of \$1,740.00 (\$1,440.00 for the payment of the issue fee, \$300.00 for the payment of the publication fee), and any additional fees which may be required, to the credit card listed on the attached PTO-2038. However, if the PTO-2038 is missing, if the amount listed thereon is insufficient, or if the amount is unable to be charged to the credit card for any other reason, the Commissioner is authorized to charge Deposit Account No. 06-1315; Order No. CPCM:0008.

Respectfully submitted,

Nathan E. Stacy  
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(281) 970-4545

Date: May 28, 2008



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**MAIL STOP ISSUE FEE**

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P.O. Box 1450  
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May 28, 2008  
Date

Helen Tinsley

Sir:

**COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE**

On February 29, 2008, a Notice of Allowability and a Notice of Allowance and Fee(s) Due was mailed for the above-referenced application. Attached to the Notice of Allowability, the Examiner provided an Examiner's Amendment. As previously agreed during a conversation between Applicant's representative, Floron C. Faries, and the Examiner, Applicant accepts the changes made to the claims by the Examiner's amendment. However, although Applicant agrees that the present claims are allowable over the prior art of record, Applicant does not wish for the Examiner's reasons for allowance to be binding on Applicant in any manner. Accordingly, Applicant respectfully declines to accept the Examiner's Statement of Reasons for Allowance.

U.S. Serial No. 09/705,316  
Comments on Statement of Reasons for Allowance  
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Applicant respectfully emphasizes that the amendments made to independent claims 1, 30, and 41, referred to in the Examiner's Statement of Reasons for Allowance, merely incorporate limitations from dependent claims 3 and 31. The amendments do not incorporate any further specific limitations of embodiments disclosed in the specification or discussed in the prosecution history. Accordingly, these claims should be interpreted in accordance with the accepted canons of claim construction and should not be unduly limited by any limitations read in from the specification or by any implied estoppels resulting from the Examiner's Statement for Reasons of Allowance. Moreover, Applicant may wish to pursue the unamended claims (in their form prior to the Examiner's amendment) in a continuing application.

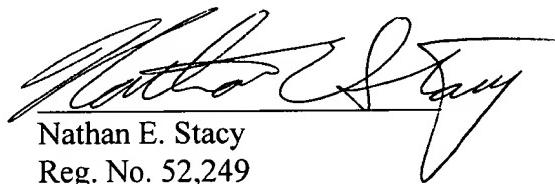
Further, in reliance upon M.P.E.P. § 1302.14, Applicant notes that the Examiner's Statement of Reasons for Allowance is merely the personal opinion of the Examiner as to why the Examiner believes the claims to be allowable. However, the Examiner's statement may not create an estoppel, as only an Applicant's statement may be used to create an estoppel. Indeed, the failure of an Applicant to comment on the Examiner's Statement of Reasons for Allowance should not be treated as acquiescence to the Examiner's reasons. Further, Applicant understands that each of the Examiner's statements should include at least (1) the major difference in the claims not found in the prior art of record, and (2) the reasons why that difference is considered to define patentably over the prior art if either of these reasons for allowance is not clear in the record. Accordingly, to the extent that the Examiner does not rely upon language actually used in a claim, to the extent that the Examiner misinterprets claim language, and to the extent that the

U.S. Serial No. 09/705,316  
Comments on Statement of Reasons for Allowance  
May 28, 2008

Examiner misinterprets prior art, the Examiner's Statement of Reasons for Allowance is improper. Furthermore, Applicant realizes that the Examiner's statement is not intended to state all of the reasons for allowance. Although Applicant agrees that the present claims are allowable over the prior art of record, Applicant does not wish for the Examiner's reasons for allowance to be binding on Applicant in any manner, and it should not be inferred or presumed that Applicant acquiesced to the Examiner's statements. Accordingly, Applicant respectfully declines to accept the Examiner's Statement of Reasons for Allowance.

Respectfully submitted,

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